In the Supreme Court of the United States

Supreme Court, U. S
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MICHAEL RODAK, JR., C

OCTOBER TERM, 1971.

No. 71-422.

LAKE CARRIERS' ASSOCIATION, *et al.*,

Appellants,

vs.

RALPH A. MacMULLAN, *et al.*,

Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN,
SOUTHERN DIVISION.

REPLY BRIEF ON BEHALF OF APPELLANTS.

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APPEAL FROM THE UNITED STATES DISTRICT COURT
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REPLY BRIEF ON BEHALF OF APPELLANTS.

Once again this Court is faced with the illusive question of the scope of the judicial function in respect of resolving limits of "national-state" power. Not a novel question certainly, but nevertheless one appellants feel deserving of further analysis and consideration.

I. FEDERAL COURTS AND PROCEDURE—ABSTENTION.

The doctrine of abstention would appear to be bottomed on the theory of avoiding unnecessary adjudications of doubtful constitutional questions which ultimately might be supplanted by a controlling decision of a state court. But it is no more attractive an alternative to have ambiguous and obscure adjudications by state courts standing as barriers to the determination by this Court of the validity under the Federal Constitution of state action.

In *Zwickler v. Koota*, 389 U.S. 241, this Court, quoting from *Stapleton v. Mitchell*, 60 F. Supp. 51, 55, said, at page 248:

> "We yet like to believe that wherever the Federal courts sit, human rights under the Federal Constitution are always a proper subject for adjudication, and that we have not the right to decline the exercise of that jurisdiction simply because the rights asserted may be adjudicated in some other forum."

The "special circumstances" required to invoke the doctrine of abstention are not present here. There is no reason to abstain while the parties repair to a state court to determine whether or not Michigan has the legal authority to compel the installation of holding tanks or incinerating devices on federally licensed vessels. No interpretation of the Michigan statute by a state court can avoid or circumvent this issue which ultimately must be resolved on the basis of the Federal Constitution irrespective of the forum invoked.

This Court has frequently held that in the exercise of its appellate jurisdiction it has the power not only to correct errors of law in the judgment under review, but also to make such disposition of the case as justice requires. Appellants believe that, in the interest of justice, this Court is duty bound to now decide the issues joined on the pleadings and the evidence.

Michigan asserts that a challenge on the Federal level to the validity of its statute should not be entertained because no irreparable injury has been shown from harassment through the prosecution of criminal proceedings, and that Michigan officials have merely sought the voluntary cooperation of the vessel companies. Aside from the fact that the lack of harassment through criminal proceedings and the seeking of voluntary cooperation can in no way

lend any constitutional validity to the Michigan statute, harassment or the lack of harassment simply is not and should not be the sole test. Appellants do not believe that the "special circumstances" necessary to justify abstention should be deemed to be present simply because harassment through criminal prosecutions has not occurred. The burden of "special circumstances" is upon those who seek abstention, not those who oppose it.

This Court, in *Zwickler v. Koota, supra,* points out that recognition of the role of state courts as the final expositors of state law implies no disregard for the primacy of the federal judiciary in deciding questions of federal law. Said this Court, page 252:

> "These principles have particular significance when, as in this case, the attack upon the statute on its face is for repugnancy to the First Amendment. In such case to force the plaintiff who has commenced a federal action to suffer the delay of state court proceedings might itself effect the impermissible chilling of the very constitutional right he seeks to protect. * * *"

While this Court, in *Zwickler v. Koota, supra,* was concerned with first amendment rights, which certainly are of extreme importance, appellants contend that other rights, secured by the Constitution, are of equal importance.

That a "chilling" effect can be achieved other than by harassment through the prosecution of criminal proceedings is abundantly clear. Attached hereto (Appendix A) are two television editorials which appeared on WJBK-TV2 Detroit during August last year. The implication in such editorials that appellants are not law-abiding citizens and that they can be brought into conformity with law only through the force of public opinion is about as "chilling"

a type of pressure as can be brought to bear. Because of such "chilling" effect from public pressure within Michigan, a delay in the final determination of this litigation could well result in defeating the very purposes for which appellants assert their federal claims.

II. THE NATIONAL POWER AS A LIMITATION UPON STATE POWER.

It is recognized, as asserted by Amicus Curiae New York, that the police power of the state is the least limitable of all the powers of government, but even that statement implies that there is, at least, some limitation.

Gibbons v. Ogden, 9 Wheat. 1, establishes that the states may regulate their own purely "internal affairs" whether of trading or police, unless such regulations come into collision with an Act of Congress and deprive a citizen of a right to which that Act entitles him. In the *License Cases*, 5 How. 504, Chief Justice Taney acknowledged that the states may, for the safety or convenience of trade or for the protection of the health of its citizens, make regulations of commerce for its own ports and harbors and for its own territory.

But the police power is essentially a "local" power and, while there has been left to the states a wide scope for the regulation of matters of "local" state concern, the states have not been deemed to have authority to regulate those phases of the national commerce which, because of the need of national uniformity, demand that the regulation, if any, be prescribed by a single authority. *Cooley v. Port Wardens of Philadelphia*, 12 How. 299.

The evil here is that the Michigan statute reaches far beyond Michigan's jurisdiction. Once a vessel installs holding tanks or an incinerating device it must utilize that

equipment wherever it may go. The practical effect of such a regulation is to control vessel operations beyond the boundaries of the state, indeed throughout the entire Great Lakes.

Michigan asserts that it makes no difference what other states or the federal regulations may provide, for if the vessel operators comply with the Michigan requirement of total retention they will be in compliance with the regulations of all of the other states as well as with any forthcoming regulations of the EPA. At first blush such a simple argument would seem to have some appeal, but under the Federal Constitution it will not bear analysis, as found by this Court in *Southern Pacific Co. v. Arizona*, 325 U.S. 761.

It seems that Arizona attempted to make it unlawful to operate within the state a railroad train of more than 14 passenger or 70 freight cars. This Court noted that such a statute required interstate trains of a length lawful in other states to be broken up and reconstituted as they enter each state according as it may impose various limitations on train lengths. The alternative was for the carrier to conform to the lowest train limit restriction of any of the states through which its trains passed. Because it was not feasible to operate a newly assembled train from the New Mexico yard nearest to Arizona, the Arizona limitation governed the flow of traffic as far east as El Paso, Texas. Said the Court, page 775:

> "If one state may regulate train lengths, so may all the others, and they need not prescribe the same maximum limitation. *The practical effect of such regulation is to control train operations beyond the boundaries of the state* exacting it because of the necessity of breaking up and reassembling long trains at the nearest terminal points before entering and after leaving the regulating state. The serious im-

> pediment to the free flow of commerce by the local regulation of train lengths and the practical necessity that such regulation, if any, must be prescribed by a single body having a nation-wide authority are apparent." (Emphasis supplied.)

Here, Michigan seeks to regulate the equipment of commercial Great Lakes vessels from the head of the lakes to Anticosti Island. The extraterritorial effect of the Michigan statute is thus much greater than that even of the train limit law which was struck down in *Southern Pacific Co. v. Arizona, supra.* Further said this Court in that case, pages 779-780:

> "The principle that, without controlling Congressional action, a state may not regulate interstate commerce so as substantially to affect its flow or deprive it of needed uniformity in its regulation is not to be avoided by 'simply invoking the convenient apologetics of the police power,' * * *"

This Court, in *Southern Pacific Co. v. Arizona, supra,* also distinguished the series of full train crew cases upon which Michigan and New York rely. Said the Court, page 782:

> "* * * While the full train crew laws undoubtedly placed an added financial burden on the railroads in order to serve a local interest, they did not obstruct interstate transportation or seriously impede it. They had no effects outside the state beyond those of picking up and setting down the extra employees at the state boundaries; they involved no wasted use of facilities or serious impairment of transportation efficiency, which are among the factors of controlling weight here. * * *"

In seeking to compel the installation of holding tanks or incinerating devices, the Michigan statute has wide spread effects outside the state. It means that pump out

facilities must be installed in virtually every Great Lakes port, even though neither federal law nor the state law governing a particular port may so require. Michigan, in essence, is trying to commit the entire Great Lakes region to its system of pollution control by simply invoking the convenient apologetics of the police power.

Michigan contends that appellants have suffered no damage and have shown no irreparable injury, because most of the carriers use their own piers for loading and unloading. This simply is not true. If the Court will examine Exhibits 8, 9 and 10, which are charts of the St. Marys, St. Clair and Detroit Rivers, it will be seen that there are numerous docks unconnected in any way with the parties to this litigation.

Irreparable injury arises because appellants are without an adequate remedy at law or in equity to compel the installation of pump out facilities in any of the ports outside of Michigan. The only alternatives are to pump out in the open lake outside of Michigan or, if Michigan does install pump out facilities, to bring it all back to Michigan shoreside communities. In that event Michigan will become the sewage collector of the Great Lakes.

In the final analysis, however, the decisive question would seem to be whether the total effect of the Michigan law as a "local" state health measure outweighs the national interest in keeping interstate and maritime commerce free from interferences which seriously impede it and subject it to local regulation which does not have a uniform effect on such commerce. The Michigan statute in no way meets this test.

Michigan stresses (Appellees' brief, page 28), that since a vessel does not have a fixed location, a discharge of sewage from a vessel could, in fact, be right over a municipal water intake. This completely ignores the pro-

visions of the Interstate Quarantine Regulations promulgated by the United States Public Health Service pursuant to Title 42 of the United States Code.

42 U.S.C. § 264 provides in part:

> "(a) The Surgeon General, with the approval of the Secretary, is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. * * *"

Pursuant to this authority the Interstate Quarantine Regulations (42 C.F.R. § 72) have been promulgated by the Surgeon General. Such regulations are applicable to all cargo vessels engaged in interstate traffic. (42 C.F.R. § 72.1(i)). The definition of vessels subject to such regulations covers all of appellants' vessels (42 C.F.R. § 72.1(o)).

42 C.F.R. § 72.121 provides with respect to the discharge of wastes:

> "Vessels operating on fresh water lakes or rivers shall not discharge sewage, or ballast or bilge water, within such areas adjacent to domestic water intakes as are designated by the Surgeon General.
>
> "Cross Reference: For designation of areas by the Surgeon General of the Public Health Service pursuant to § 72.121, see 25 F.R. 8925, Sept. 16, 1960."

25 F.R. 8925 (reproduced and attached hereto as Appendix B) lists the precise location of every domestic water intake on the Great Lakes and prohibits vessels subject to the Interstate Quarantine Regulations from discharging sewage, ballast or bilge water within three miles of any such domestic water intake. Thus, Federal law has already resolved the problem which Michigan

foresees with respect to vessels discharging near domestic water intakes and, in fact, it would seem that the necessity for the Michigan statute to protect domestic water supplies is de minimus. Such, moreover, is not an assumption or simply an argument, but a proven fact on the record. Michigan, both in its testimony (A. 119) and in its brief (page 28), emphasizes that the state constantly checks the quality of the water near any water intake. Accordingly if vessels were polluting the waters in the vicinity of domestic water intakes, then certainly the state, through its constant checks, would have the necessary evidence. Yet nowhere in the record has Michigan established or come forward with any evidence that any ship has damaged water quality affecting domestic water supplies.

The Interstate Quarantine Regulations remove yet another cloud that has been cast upon this litigation by the Amicus Curiae brief of the State of New York. It argues vigorously that it has a law similar to Michigan predicated upon the local police power. Interestingly enough, however, New York excludes from the definition of "watercraft", subject to its Act, passenger or cargo carrying vessels subject to the Quarantine Regulations of the United States Public Health Service adopted pursuant to Title 42 of the United States Code. (New York Laws 1966, Chapter 897; Brief of the State of New York, Appendix page 1a.) Since all of appellants' vessels are subject to the Interstate Quarantine Regulations it follows that they are specifically excluded from the New York Act. Thus the New York Act is not at all similar in scope or effect to the Michigan Act. Neither is the legislation of Wisconsin nor the regulations of the St. Lawrence Seaway similar to Michigan's statute as is tacitly asserted by Michigan in its brief (page 31).

Wis. Stat. Ann. § 29.01(4) provides for the following classification of Wisconsin waters:

> "(4) Waters classified. All waters within the jurisdiction of the state are classified as follows: Lakes Superior and Michigan, Green Bay, Sturgeon Bay, Sawyer's harbor, and the Fox river from its mouth up to the dam at De Pere are 'outlining waters.' All other waters, including the bays, bayous and sloughs of the Mississippi river bottoms, are 'inland waters.'"

Wis. Stat. Ann. § 30.71(2) provides:

> "(2) No person shall operate any boat equipped with toilets on any outlying waters of this state, as defined in s. 29.01(4), unless the toilet wastes are retained for shore disposal by means of facilities constructed and operated in accordance with rules adopted by the department of health and social services: *This subsection shall not apply to boats engaged in international or interstate commerce.*" (Emphasis supplied.)

Consequently, Wisconsin law does not apply to the vessels of appellants because they are engaged in interstate and foreign commerce on outlying waters.

Ohio Revised Code Section 1547.331 provides:

> "No person shall launch, moor, dock, use, or operate on Lake Erie, the Muskingum river, or the Ohio river, or their immediately connected harbors and anchorage facilities, on or after July 1, 1973, any watercraft which contains a toilet which is capable of discharging sewage into such waters, unless the watercraft is equipped with a sewage disposal system which is approved by regulation of the department of health as providing treatment or disposal of effluent in a manner which is adequate to protect the public health which complies with water quality standards adopted by the water pollution control board, and which meets standards for safety estab-

> lished by regulation of the chief of the division of watercraft, and is maintained and used."

Thus, when Ohio's law becomes effective the overboard discharge of treated effluent will be accepted, which is far different from the Michigan statute. Pennsylvania appears to have no statutory provisions whatsoever and presumably the Federal standards when promulgated will be accepted.

Concerning the St. Lawrence Seaway, 33 C.F.R. § 401.102-19 provides with respect to sewage and garbage disposal systems:

> "Vessels not otherwise equipped with containers for ordures shall be equipped with a sewage disposal system enabling compliance with applicable laws relative to sewage disposal. * * *"

As previously indicated, the statutory provisions of New York are not applicable to appellants' vessels on United States waters of the St. Lawrence Seaway (although they are also New York waters) because New York law specifically exempts vessels subject to the Interstate Quarantine Regulations. Thus the only statutory enactment applicable to United States waters of the St. Lawrence Seaway is the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970, 33 U.S.C. § 1151 et seq. Accordingly, the implication of Michigan's brief (page 31), that most of the so-called Great Lakes states and the St. Lawrence Seaway, having taken some form of action regarding the discharge of sewage, necessarily leads to uniformity, is purely an illusion.

Michigan, in its brief (page 30) places great stress on the notice of the Administrator of the Environmental Protection Agency, issued May 12, 1971, to the effect that

until the Federal standards become effective "the States have the autority to adopt and enforce their own statutes and regulations on this subject without federal participation." What the Administrator neglected to add is that in so exercising such authority the states cannot exceed the scope of their "local" police powers, nor unduly burden interstate commerce or interfere with the proper harmony of the maritime law, which Michigan, in this instance, has clearly done. The pronouncement in 33 U.S.C. § 1151 that nothing in the Federal Act shall be construed as impairing or in any manner affecting any right or jurisdiction of the states in no way confers additional power over and above the "local" police power on the states. *Cooley v. Port Wardens of Philadelphia, supra,* clearly establishes that, while Congress may adopt the laws of a state, it cannot enable a state to legislate. In substance, Congress cannot transfer to a state its legislative powers. *Knickerbocker Ice Co. v. Stewart,* 253 U.S. 149; *American Waterways Operators, Inc., et al. v. Askew, et al.,* No. 71-156-Civ-J (M.D. Fa., December 10, 1971). Any void that may have been left by Congress (a proposition appellants do not admit) in planning and implementing an orderly, realistic, uniform scheme of vessel pollution control does not automatically mean that the states can move into that void. Further, 33 U.S.C. § 1154 clearly indicates that the type of state activity contemplated by the Congress was not individual state action but the promulgation of uniform state laws relating to the prevention and control of water pollution through the medium of interstate compacts approved by the Congress.

Finally, it remains but to dispose of the argument advanced by Michigan that, in any event, under 33 U.S.C. § 1163(f) a state may make application to the Administrator of the Environmental Protection Agency for a pro-

hibition against the discharge from a vessel of any sewage (whether treated or not) into the waters of such state. Concerning this particular provision of law, the Report of the Committee on Public Works, United States Senate, accompanying S. 7, the companion bill of H.R. 4418, which ultimately became the Water Quality Improvement Act of 1970 (91st Congress, First Session, Report 91-351), states, pages 12-13:

> "The committee is aware, however, of the necessity to relate any sewage treatment control measure to existing water quality programs. Consistent with this philosophy, the committee has provided authority for the States to prohibit entirely the discharge of any sewage from vessels without regard to the regulations regarding installation of marine sanitation devices if a water quality standards plan for implementation requires such restrictive measures. *This exception is not intended to be broadly construed.* A State cannot prohibit vessel waste discharges for all of its rivers, and lakes and coastal waters unless the State has in fact adopted standards which establish uses for all of those waters which require such an absolute prohibition. *In effect, the committee intends that any State prohibition apply only to areas designated for protection of public drinking water supplies, shellfish beds, and areas designated for body contact recreation.*" (Emphasis supplied.)

Consequently there is no basis in law for Michigan's assertion that even under the Federal Act the entire territorial waters of Michigan may be made a no discharge area and that therefore it may require holding tanks or incinerating devices.

CONCLUSION.

All things considered, appellants can put forth no more concise statement of their position than that of Mr. Justice Miller in *Henderson v. Mayor of New York*, 92 U.S. 259. Said Mr. Justice Miller, page 274, writing for the Court:

> "We are of the opinion that this whole subject has been confided to Congress by the Constitution; that Congress can more appropriately and with more acceptance exercise it than any other body known to our law, state or national; that by providing a system of laws in these matters, applicable to all ports and to all vessels, a serious question, which has long been matter of contest and complaint, may be effectually and satisfactorily settled."

Respectfully submitted,

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WJBK-TV2 DETROIT

EDITORIAL

ROBERT C. WHITE
EDITORIAL DIRECTOR

Monday, August 16, 1971

FREIGHTERS FOUL THE GREAT LAKES

CAMERA:
McBRIDE

FILM:
SHIPS

Since 1970, Michigan has prohibited the discharge of raw sewage from any vessel using state waterways. While the vast majority of small pleasure boat operators have installed holding tanks or other approved retention systems, nine of every ten Great Lakes commercial ships continue to pollute with impunity.

Notable exceptions are the Ford Motor Company fleet and most foreign vessels. But a nearly total lack of cooperation has come from the powerful Lake Carriers Association, which argued in Federal District Court that Michigan has no jurisdiction over interstate commerce.

A panel of judges ruled that the state does indeed have the power to police its waters, but restrained action against the carriers pending a time-consuming appeal to the U.S. Supreme Court.

In the meantime, according to the State Water Resources Commission fully 90 percent of the domestic freighters plying Michigan waters continue to foul them with untreated human waste. The Commission is powerless to do much but gently prod the shippers and offer any desired assistance.

CAMERA:
McBRIDE

CARD: ADDRESS

CAMERA:
McBRIDE

It's just possible that the force of public opinion, especially from law-abiding small boat operators, might help convince the shippers of their responsibility in the pollution fight. TV2 hopes you'll let your feelings be known to the Lake Carriers Association, Rockefeller Building, Cleveland, Ohio. We also hope the problem will receive the careful attention of the international conference on Great Lakes pollution now in progress on Mackinac Island.

Delivered by: Robert J. McBride, Director of News & Community Affairs.

APPENDIX A (Page 1)

Number Two Storer Place, Southfield, Michigan 48075 • (313) 557-9000

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WJBK-TV OFFERS A REASONABLE OPPORTUNITY TO REPLY TO THE VIEWS EXPRESSED IN THIS EDITORIAL TO A RESPONSIBLE PERSON OR GROUP REPRESENTING A SIGNIFICANT OPPOSING VIEWPOINT, PROVIDED REQUEST FOR REPLY TIME IS SUBMITTED TO WJBK-TV WITHIN ONE WEEK OF THIS BROADCAST.

WJBK-TV2 DETROIT

EDITORIAL

ROBERT C. WHITE
EDITORIAL DIRECTOR

Wednesday, August 25, 1971

THE CARRIERS VS. THE COMMISSION

CAMERA: McBRIDE

TV2 recently noted that, while Michigan law requires sewage holding tanks on all watercraft passing through state waters, nine out of ten Great Lakes freighters are ignoring that law.

CHROMA KEY: LETTER

We're now in receipt of a letter from the Lake Carriers Association in Cleveland disputing TV2's assertion that "the vast majority" of Michigan pleasure boat owners have installed holding tanks. The Michigan Water Resources Commission, to the contrary, states flatly that 93 percent have.

FILM: SHIPS

The Carriers Association letter also declares that fully 25 percent of the commercial vessels in the Great Lakes fleet do have "installations for the treatment of sewage." The Water Resources Commission tells us, however, that nearly all of these are of the so-called "macerator-chlorinator" type which merely fragment and to some degree disinfect waste -- a procedure unacceptable under Michigan law.

The Carriers Association correctly points out that most Michigan ports have only "primary" sewage treatment plants and adds that pumping shipboard waste into them actually would increase pollution. Disagreeing, the Water Resources Commission says that even primary municipal sewage treatment, involving sedimentation, is far superior to any existing shipboard disposal system.

CAMERA: McBRIDE

While it's true that freighters account for only a small percentage of our total pollution problem, they are mobile polluters discharging waste indiscriminately. TV2 continues to believe that they should obey Michigan law and install holding tanks.

Delivered by: Robert J. McBride, Director of News & Community Affairs

APPENDIX A (Page 2)

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

INTERSTATE QUARANTINE

Discharge of Vessel Wastes in Fresh Water Rivers and Lakes—the Great Lakes and Connecting Waters

Notice is hereby given that pursuant to § 72.121 of the Interstate Quarantine Regulations of the Public Health Service (42 CFR 72.121) the Surgeon General of the Public Health Service has designated the areas described herein adjacent to the below listed domestic water intakes in the Great Lakes and connecting waters as restricted areas within which the discharge of sewage, or ballast or bilge water from vessels is prohibited.

Except as otherwise specifically indicated, in each case the restricted area includes the water within a circle having a radius of three miles with the domestic water intake as its center, in no event, however, extending beyond the international boundary line with Canada.

This restriction applies to all vessels which are under way, moored or anchored within the restricted areas subject to the following provisions:

1. Vessels moored at docks shall not discharge sewage, ballast or bilge water overboard if dock facilities for the disposal of such waste are available.

2. Vessels required to anchor within a restricted area under an emergency condition for the safety of the vessel are exempted.

3. Vessels which provide sewage or waste treatment approved by the Surgeon General are exempted from that portion of the restriction applicable to sewage.

These designations will become effective on October 1, 1960.

The list of intakes and the extent of the restricted areas may be revised from time to time by the Surgeon General. Copies of this designation and revisions, if any, may be obtained from the following sources:

Surgeon General, Public Health Service, Department of Health, Education, and Welfare, Washington 25, D.C.

Regional Medical Director, Public Health Service, Department of Health, Education, and Welfare, Room 712, New Post Office Building, 433 West VanBuren Street, Chicago 7, Ill.

Regional Medical Director, Public Health Service, Department of Health, Education, and Welfare, Room 1200, 42 Broadway, New York 4, N.Y.

Regional Medical Director, Public Health Service, Department of Health, Education, and Welfare, 2305 Federal Office Building, 911 Walnut Street, Kansas City 6, Mo.

Medical Officer in Charge, Foreign Quarantine Station, c/o American Consulate General, 1556 McGregor Street, Montreal 25, Canada.

Dated: August 30, 1960.

[SEAL] L. E. BURNEY,
Surgeon General.

Approved: September 9, 1960.

EDWARD FOSS WILSON,
Acting Secretary of Health, Education, and Welfare.

DOMESTIC WATER INTAKES IN THE GREAT LAKES AND CONNECTING WATERS

Source, State, and consumer served	Intake location by U.S. Lake Survey Chart Number	Intake location by geographical coordinates					
		North Latitude			West Longitude		
		Deg.	Min.	Sec.	Deg.	Min.	Sec.
ST. LAWRENCE RIVER							
New York:							
Reynolds Metals Co.[1]	11	44	89	10	74	46	15
Aluminum Co. of America[1]	11	44	87	10	74	45	15
Ogdensburg[1]	14	44	41	10	75	30	15
Morristown[1]	14, 112	44	38	07	75	38	21
Alexandria Bay[1]	115, 116	44	20	11	75	55	27
Thousand Island State Park[1]	16, 116	44	17	33	76	01	36
Clayton[1]	16, 17, 21, 117	44	14	26	76	05	31
Cape Vincent[1]	18, 21	44	07	44	76	20	32
LAKE ONTARIO							
New York:							
Oswego	22, 228	43	28	40	76	31	29
Wolcott Village	22, 23	43	18	40	76	49	34
Sodus Point Village	234	43	16	36	77	03	44
Sodus Village	23	43	16	36	77	03	46
Williamson Water District	23	43	17	36	77	11	17
Ontario Water District	23	43	16	35	77	17	15
Monroe County Water Authority	23, 236	43	17	35	77	37	57
Rochester	23	43	17	30	77	37	57
Hilton	24	43	20	30	77	47	30
Brockport	24	43	21	35	77	55	30
Lyndonville	24	43	22	40	78	23	36
Barker	25	43	22	12	78	33	40
Wilson	25	43	19	12	78	49	49
NIAGARA RIVER							
New York:							
Niagara Falls[1]	31, 312	43	05	05	79	03	12
Lockport[1]	31, 312	43	02	05	78	53	07
North Tonawanda[1]	31, 312	43	01	05	78	53	20
Tonawanda[1]	31, 312	43	01	05	78	53	15
Grand Island[1]	31, 312	43	57	15	78	58	10
Town of Tonawanda[1]	31, 312	43	57	15	78	58	10
LAKE ERIE							
New York:							
Buffalo	31, 312, 314	42	52	07	78	54	45
Erie County Water Authority	31	42	49	45	78	52	55
Wanakah	31	42	44	30	78	50	30
Erie County Water Authority	31, 312	42	41	30	78	52	30
Angola	32	42	38	30	79	02	30
Silver Creek	33	42	33	30	79	10	30
Dunkirk	33	42	29	30	79	20	15
Pennsylvania, Erie (2 intakes)	33, 332	42	07	30	80	05	15
		42	08	45	80	06	10
Ohio:							
Conneaut	33	41	57	45	80	34	30
Union Carbide Metals Co.	34	41	53	30	80	33	45
Ashtabula	34, 342	41	54	30	80	48	30
Lake County	34	41	50	30	81	01	30
Industrial Rayon Co.	34	41	47	15	81	12	30
Diamond Alkali Co.	34, 346	41	46	30	81	15	45
Fairport	34, 346	41	45	45	81	17	30
Painsville	34, 346	41	43	45	81	18	30
Mentor Township Park	34	41	43	30	81	22	30
Cleveland: (a) Nottingham plant	35	41	37	30	81	37	45
(b) Baldwin	35	41	32	45	81	43	30
(c) Division Ave.	35	41	30	30	81	43	30
(d) Clague Rd.	35	41	29	30	81	43	30
Avon Lake	35	41	30	30	82	01	30
Lorain	35, 357	41	27	30	82	11	30
Elyria	35	41	27	30	82	13	15
Vermillion	35, 36	41	26	30	82	22	15
Huron	35, 362	41	24	30	82	32	30
Plum Brook Ordnance Works	36	41	25	30	82	42	30
Sandusky	36, 39, 364, 365	41	27	30	82	42	30
Kelleys Island	36, 39, 364	41	35	30	82	43	45
Put-In-Bay	36, 39, 364	41	38	45	82	48	30
Marblehead	36, 39, 364	41	32	30	82	43	45
Lakeside	36, 39, 364	41	32	30	82	44	30
Port Clinton	36, 37, 39, 364	41	31	15	82	56	15
Camp Perry	37, 39	41	31	30	82	51	15
Toledo	37, 39	41	42	30	83	15	30
Michigan:							
Monroe	37, 39, 376	41	56	15	83	14	30
Enrico Fermi Atomic Power Plant	37, 39	41	57	30	83	14	15
DETROIT RIVER							
Michigan:							
Wyandotte[1]	41, 412	42	12	15	83	27	15
Wayne County Water Authority[1]	41, 412	42	13	30	83	27	15
Detroit[1]	41, 416	42	21	30	83	27	15
LAKE ST. CLAIR							
Michigan:							
Grosse Pointe Farms	42, 416	42	24	15	82	53	45
Mount Clemens	42	42	36	30	82	43	30
New Baltimore	42	42	40	30	82	44	30
Ira Township	42	42	48	30	82	36	30
ST. CLAIR RIVER							
Michigan:							
The Old Club	42, 43	42	32	15	82	30	45
The Colony[1]	42, 43	42	27	15	82	31	45
Algonac[1]	42, 43	42	37	45	82	32	30
Marine City[1]	43	42	43	45	82	29	45
East China Township[1]	43	42	46	30	82	28	45
St. Clair[1]	43	42	49	30	82	29	30
Marysville[1]	43	42	54	30	82	29	30
Port Huron[1]	43, 51	42	58	30	82	25	30

See footnotes at end of table.

APPENDIX B (Page 1)

Source, State, and consumer served	Intake location by U.S. Lake Survey Chart Number	Intake location by geographical coordinates					
		North Latitude			West Longitude		
		Deg.	Min.	Sec.	Deg.	Min.	Sec.
LAKE HURON							
Michigan:							
Harbor Beach	51	43	51	30	82	38	45
Port Hope	51	43	56	45	82	42	00
Point aux Barques	52	44	04	15	82	55	30
Bay City	52, 524	43	43	02	83	54	05
Saginaw-Midland	52	44	06	30	83	31	45
Pinconning	52	43	51	25	83	54	10
Alabaster	52	44	11	35	83	23	15
East Tawas	52	44	16	40	83	29	30
Alpena	53	45	02	40	83	25	30
Stoneport	6, 53, 537	45	17	55	83	25	05
St. Ignace	6, 60, 70	45	49	45	84	42	25
Mackinac Island	6, 60, 70	45	50	50	84	37	35
LAKE MICHIGAN							
Michigan:							
Traverse City	70, 706	44	46	20	85	37	30
Ludington	77	43	58	45	86	28	30
Muskegon	76, 767	43	12	25	86	21	05
Muskegon Heights	76	43	10	50	86	19	05
Grand Haven	76, 765	43	03	00	86	14	45
Grand Rapids	76	42	58	15	86	14	45
Holland	76, 763	42	46	00	86	13	40
South Haven	76	42	24	00	86	17	40
Benton Harbor	75, 758	42	07	50	86	29	10
St. Joseph	75, 758	42	06	50	86	30	10
Bridgman	75	41	56	35	86	35	05
Menominee	702, 723	45	06	40	87	35	35
Escanaba	70, 701, 718	45	44	35	87	02	15
Gladstone	70, 701, 718	45	50	40	86	59	35
Nahma	70, 701	45	50	00	86	39	40
Indiana:							
Long Beach	75	41	45	00	86	51	35
Michigan City	75	41	44	10	86	54	10
Gary	75, 751	41	38	35	87	20	40
East Chicago	75, 751	41	39	50	87	24	25
Whiting	75, 751, 755	41	40	50	87	25	25
Hammond	75, 751, 755	41	42	15	87	30	30
Illinois:							
Chicago: (a) 68th St. crib [1]	75, 751	41	47	10	87	31	35
(b) Four Mile crib [2]	75, 751	41	52	50	87	33	45
(c) Harrison crib [1]	75, 751, 752	41	55	00	87	34	30
(d) Wilson Ave. crib [2]	75, 751	41	58	00	87	35	30
Evanston	75, 751	42	03	45	87	39	15
Wilmette	75	42	05	15	87	41	00
Kenilworth	75	42	06	00	87	42	10
Winnetka	75	42	07	15	87	43	20
Glencoe	75	42	08	45	87	44	30
Highland Park	75	42	11	45	87	46	55
Highwood	75	42	12	30	87	47	25
Fort Sheridan	75	42	13	40	87	47	40
Lake Forest	75	42	16	15	87	48	50
Great Lakes Naval Training Center	75	42	18	50	87	48	05
North Chicago	75	42	19	25	87	48	45
Waukegan	74, 75	42	21	30	87	48	25
Wisconsin:							
Kenosha	74	42	35	45	87	47	55
Racine	74, 745	42	44	45	87	45	30
Oak Creek	74	42	52	45	87	50	50
Carrollville	74	42	53	00	87	50	00
South Milwaukee	74	42	54	05	87	50	15
Cudahy	74	42	57	20	87	50	00
Milwaukee: (a) North intake	74	43	04	55	87	53	30
(b) South intake	74	43	00	10	87	51	15
Whitefish Bay	74	43	08	10	87	53	00
Port Washington	74	43	23	30	87	51	50
Sheboygan	73	43	46	35	87	41	10
Manitowoc	73, 735	44	04	44	87	38	55
Two Rivers	73	44	07	55	87	33	25
Green Bay	70, 73, 703	44	30	15	87	27	35
Marinette	702, 723	45	05	00	87	38	50
LAKE SUPERIOR							
Michigan:							
White Pine	95	46	50	10	89	34	15
Calumet	94	47	16	45	88	32	10
Copper Harbor	94	47	28	25	87	53	20
Baraga	94, 943	46	46	40	88	30	20
L'Anse	94, 943	46	45	45	88	27	20
Marquette	93, 935	46	32	45	87	21	55
Munising	93, 931	46	26	40	86	40	50
Sault Ste. Marie [1]	63, 92	46	29	30	84	25	30
Wisconsin:							
Ashland	96, 961, 964	46	36	20	90	52	30
Washburn	96, 961, 964	46	40	25	90	52	20
Superior	96, 966	46	43	05	92	02	45
Minnesota:							
Duluth	96	46	51	40	91	57	30
Two Harbors	96	47	01	10	91	38	25
Beaver Bay	96, 97	47	15	10	91	15	50
Silver Bay	97	47	17	50	91	14	25
Grand Marais	97	47	44	40	90	20	45

[1] Restricted area extends from three miles upstream to one-half mile downstream of the intake.
[2] Restricted area is a circle having a radius of four miles around this intake.

[F.R. Doc. 60-8578; Filed, Sept. 15, 1960; 8:45 a.m.]

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